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TRIPURA LEGISLATIVE ASSEMBLY

SECRETARIAT

NEW CAPITAL COMPLEX

AGARTALA, TRIPURA, PIN – 799 010

[Fax : (0381) 241 4095/9654]

No.F.7(12-15)-LA/2018. *Dated, Agartala the 24th November, 2018.*

N O T I F I C A T I O N

" As required under Rule 117 of the Rules of Procedure and Conduct of Business in the Tripura Legislative Assembly, **" The Tripura State Goods and Services Tax (Amendment) Bill, 2018 (The Tripura Bill No. 11 of 2018) "** as introduced in the Assembly on the **23rd November, 2018** is published in the Tripura Gazette."

26.11.18.

(S. Sikdar)
Secretary
Tripura Legislative Assembly

THE TRIPURA BILL NO. 11 OF 2018.

THE TRIPURA STATE GOODS AND SERVICES TAX (AMENDMENT) BILL, 2018

A

BILL

further to amend the Tripura State Goods and Services Tax Act, 2017 (Tripura Act No. 9 of 2017).

BE it enacted by The Tripura Legislative Assembly in the Sixty-ninth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Tripura State Goods and Services Tax (Amendment) Act, 2018.

(2) Save as otherwise provided, the provisions of this Act shall come into force on such date as the Government of Tripura may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Amendment of section 2.- In section 2 of the Tripura State Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), —

(1) in clause (4), for the words "the Appellate Authority and the Appellate Tribunal", the words, brackets and figures "the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171" shall be substituted;

(2) in clause (16), for the words "Central Board of Excise and Customs", the words "Central Board of Indirect Taxes and Customs" shall be substituted;

(3) in clause (17), for sub-clause (h), the following sub-clause shall be substituted, namely:-

"(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and";

(4) clause (18) shall be omitted;

(5) in clause (35), for the word, brackets and letter "clause (c)", the word, brackets and letter "clause (b)" shall be substituted;

(6) in clause (69), in sub-clause (f), after the word and figures "article 371", the words, figures and letter "and article 371J" shall be inserted;

(7) in clause (102), the following Explanation shall be inserted, namely:—

'Explanation.—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;'.

3. Amendment of section 7.- In section 7 of the principal Act, with effect from the 1st day of July, 2017,—

(1) in sub-section (1), —

(a) in clause (b), after the words "or furtherance of business;", the word "and" shall be inserted and shall always be deemed to have been inserted;

(b) after the words "a consideration", the word "and" shall be omitted and shall always be deemed to have been omitted;

(c) clause (d) shall be omitted and shall always be deemed to have been omitted;

(2) after sub-section (1), the following sub-section shall be inserted and shall always be deemed to have been inserted, namely:-

"(1A) where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.";

(3) in sub-section (3), for the words, brackets and figures "sub-sections (1) and (2)", the words, brackets, figures and letter "sub-sections (1), (1A) and (2)" shall be substituted.

4. Amendment of section 9.- In section 9 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.".

5. Amendment of section 10.- In section 10 of the principal Act,—

(1) in sub-section (1) —

(a) for the words "in lieu of the tax payable by him, an amount calculated at such rate", the words, brackets and figures "in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate" shall be substituted;

(b) in the proviso, for the words "one crore rupees, as may be recommended by the Council.", the words "one crore and fifty lakh rupees as may be recommended by the Council:" shall be substituted;

(c) after the proviso, the following proviso shall be inserted, namely:-

"Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in the State in the preceding financial year or five lakh rupees, whichever is higher.";

(2) in sub-section (2), for clause (a), the following clause shall be substituted, namely:-

"(a) save as provided in sub-section (1), he is not engaged in the supply of services;".

6. Amendment of section 12.- In section 12 of the principal Act, in sub-section (2), in clause (a), the words, brackets and figure "sub-section (1) of" shall be omitted.

7. Amendment of section 13.- In section 13 of the principal Act, in sub-section (2), the words, brackets and figure "sub-section (2) of" occurring at both the places, shall be omitted.

8. Amendment of section 16.- In section 16 of the principal Act, in sub-section (2),-

(1) in clause (b), for the Explanation, the following Explanation shall be substituted, namely:-

"Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.";

(2) in clause (c), for the word and figures "section 41", the words, figures and letter "section 41 or section 43A" shall be substituted.

9. Amendment of section 17.- In section 17 of the principal Act,-

(1) in sub-section (3), the following Explanation shall be inserted, namely:-

'Explanation.—For the purposes of this sub-section, the expression "value of exempt supply'' shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.';

(2) in sub-section (5), for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:-

(A) further supply of such motor vehicles; or

(B) transportation of passengers; or

(C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used-

(i) for making the following taxable supplies, namely:-

(A) further supply of such vessels or aircraft; or

(B) transportation of passengers; or

(C) imparting training on navigating such vessels; or

(D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged-

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both-

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force.".

10. Amendment of section 20.- In section 20 of the principal Act, in the Explanation, in clause (c), for the words and figures "under entry 84,", the words, figures and letter "under entries 84 and 92A" shall be substituted.

11. Amendment of section 22.- In section 22 of the principal Act,—

(1) in sub-section (1), the following proviso shall be inserted, namely:-

"Provided that where such person makes taxable supplies of goods or services or both from a special category State in respect of which the Central Government has enhanced the aggregate turnover referred to in sub-section (1), he shall be liable to be registered if his aggregate turnover in a financial year exceeds the amount equivalent to such enhanced turnover.";

(2) in the Explanation, in clause (iii), after the word "Constitution", the words "except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand" shall be inserted.".

12. Amendment of section 24.- In section 24 of the principal Act, in clause (x), after the words "commerce operator", the words and figures "who is required to collect tax at source under section 52" shall be inserted.

13. Amendment of section 25.- In section 25 of the principal Act,—

(1) in sub-section (1), after the proviso and before the Explanation, the following proviso shall be inserted, namely:-

"Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005 (Central Act 28 of 2005), in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the State.";

(2) in sub-section (2), for the proviso, the following proviso shall be substituted, namely:-

"Provided that a person having multiple places of business in the State may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.".

14. Amendment of section 29.- In section 29 of the principal Act,—

(1) in the heading after the word "Cancellation", the words "or suspension" shall be inserted;

(2) in sub-section (1), after clause (c), the following proviso shall be inserted, namely:-

"Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.";

(3) in sub-section (2), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.".

15. Amendment of section 34.- In section 34 of the principal Act,-

(1) in sub-section (1),-

(a) for the words "Where a tax invoice has", the words "Where one or more tax invoices have" shall be substituted;

(b) for the words "a credit note", the words "one or more credit notes for supplies made in a financial year" shall be substituted;

(2) in sub-section (3),-

(a) for the words "Where a tax invoice has", the words "Where one or more tax invoices have" shall be substituted;

(b) for the words "a debit note", the words "one or more debit notes for supplies made in a financial year" shall be substituted.

16. Amendment of section 35.- In section 35 of the principal Act, in sub-section (5), the following proviso shall be inserted, namely:-

"Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.".

17. Amendment of section 39.- In section 39 of the principal Act,-

(1) in sub-section (1),-

(a) for the words "in such form and manner as may be prescribed", the words "in such form, manner and within such time as may be prescribed" shall be substituted;

(b) the words "on or before the twentieth day of the month succeeding such calendar month or part thereof" shall be omitted;

(c) the following proviso shall be inserted, namely:-

"Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.";

(2) in sub-section (7), the following proviso shall be inserted, namely:-

"Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.";

(3) in sub-section (9),-

(a) for the words "in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed", the words "in such form and manner as may be prescribed" shall be substituted;

(b) in the proviso, for the words "the end of the financial year", the words "the end of the financial year to which such details pertain" shall be substituted.

18. Insertion of section 43A.- After section 43 of the principal Act, the following section shall be inserted, namely:—

"43A. Procedure for furnishing return and availing input tax credit. (1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.

(2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.

(3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.

(4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.

(5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.

(6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the

details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.

(7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.

(8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,-

(a) within six months of taking registration;

(b) who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount, shall be such as may be prescribed.".

19. Amendment of section 48.- In section 48 of the principal Act, in sub-section (2), after the word and figures "section 45", the words "and to perform such other functions" shall be inserted.

20. Amendment of section 49.- In section 49 of the principal Act,-

(1) in sub-section (2), for the word and figures "section 41", the words, figures and letter "section 41 or section 43A" shall be substituted;

(2) in sub-section (5),-

(a) in clause (c), the following proviso shall be inserted, namely:-

"Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;";

(b) in clause (d), the following proviso shall be inserted, namely:-

"Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;".

21. Insertion of section 49A and section 49B.- After section 49 of the principal Act, the following sections shall be inserted, namely:-

"**49A. Utilisation of input tax credit subject to certain conditions.-** Notwithstanding anything contained in section 49, the input tax credit on account of State tax shall be utilised towards payment of integrated tax or State tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

49B. Order of utilisation of the input tax credit.- Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner

of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.".

22. Amendment of section 52.- In section 52 of the principal Act, in sub-section (9), for the word and figures "section 37", the words and figures "section 37 or section 39" shall be substituted.

23. Amendment of section 54.- In section 54 of the principal Act,-

(1) in sub-section (8), in clause (a), for the words "zero-rated supplies", the words "export" and "exports" shall respectively be substituted;

(2) in the Explanation, in clause (2),—

(a) in sub-clause (c), in item (i), after the words "foreign exchange", the words "or in Indian rupees wherever permitted by the Reserve Bank of India" shall be inserted;

(b) for sub-clause (e), the following sub-clause shall be substituted, namely:-

"(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;".

24. Amendment of section 79.- In section 79 of the principal Act, after sub-section (4), the following Explanation shall be inserted, namely:—

'Explanation.—For the purposes of this section, the word person shall include "distinct persons" as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.'.

25. Amendment of section 107.- In section 107 of the principal Act, in sub-section (6), in clause (b), after the words "arising from the said order,", the words "subject to a maximum of twenty-five crore rupees," shall be inserted.

26. Amendment of section 112.- In section 112 of the principal Act, in sub-section (8), in clause (b), after the words "arising from the said order," the words "subject to a maximum of fifty crore rupees," shall be inserted.

27. Amendment of section 129.- In section 129 of the principal Act, in sub-section (6), for the words "seven days" occurring at both the places, the words "fourteen days" shall be substituted.

28. Amendment of section 143.- In section 143 of the principal Act, in sub-section (1), in clause (b), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.".

29. Amendment of Schedule I.- In Schedule I of the principal Act, in paragraph 4, for the words "taxable person", the word "person" shall be substituted.

30. Amendment of Schedule II.- In Schedule II of the principal Act, in the heading, after the word "ACTIVITIES", the words "OR TRANSACTIONS" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017.

31. Amendment of Schedule III.- In Schedule III of the principal Act, —

(1) after paragraph 6, the following paragraphs shall be inserted, namely:-

"7. Supply of goods from a place outside India to another place outside India without such goods entering into India.

8. (a) Supply of warehoused goods to any person before clearance for home consumption;

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.";

(2) The Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:-

'Explanation 2.—For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962 (Central Act 52 of 1962).'.

32. Repeal and Savings:

(1) The Tripura State Goods and Services Tax (Amendment) Ordinance, 2018 (The Tripura Ordinance No. 4 of 2018), which was promulgated on 12th October, 2018, is hereby repelled;

(2) Notwithstanding such repeal, any Notification and Order issued or any action taken under the Ordinance, so repealed shall be deemed to have been issued or likes under the corresponding provisions of this Act.

STATEMENT OF OBJECTS & REASONS

The Tripura State Goods and Services Tax Act, 2017 (Tripura Act No. 9 of 2017) was enacted with a view to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the State Government.

2. The Act provides for certain provisions for smooth transition of existing taxpayers to new goods and services tax regime. However, the new tax regime had faced certain difficulties. One of the major inconveniences caused to the taxpayers, especially small and medium enterprises, was the process of filing return and payment of tax under the Goods and Services Tax laws. In this regard, the proposed new return filing system, envisages quarterly filing of return and tax payment for small taxpayers along with minimum paperwork. In order to implement the new return filing system, and also to overcome the above difficulties, it is proposed to amend the Tripura State Goods and Services Tax Act, 2017.

3. The proposed Tripura State Goods and Services Tax (Amendment) Bill, 2018, *inter alia*, provides for the following, namely:—

(i) to amend section 7 of the Act to clarify the scope of supply;

(ii) to amend section 9 of the Act empowering the State Government to notify classes of registered persons to pay the tax on reverse charge basis in respect of receipt of supplies of certain specified goods from unregistered suppliers;

(iii) to amend section 10 of the Act so as to enhance the limit of composition levy from one crore rupees to one crore and fifty lakh rupees;

(iv) to amend section 17 of the Act to specify the scope of input tax credit;

(v) to amend section 22 of the Act to enhance the exemption limit for registration in the special category States from ten lakh rupees to twenty lakh rupees;

(vi) to amend section 25 of the Act so as to facilitate tax payer to have the option to obtain multiple registrations for multiple places of business located within the same State or Union territory and to provide for separate registration for Special Economic Zone unit or developer;

(vii) to amend section 29 of the Act so as to insert a provision for temporary suspension of registration while cancellation of registration is under process;

(viii) to insert a new section 43A so as to provide for the new system of filing return and availing input tax credit;

(ix) to amend sub-section (6) of section 107 of the Act relating to Appeals so as to provide that the amount of pre-deposit payable for filing of appeal shall be capped at twenty five crore rupees;

(x) to amend section 129 of the Act so as to increase the period relating to detention or seizure of goods and conveyance in transit from seven days to fourteen days;

4. The Bill seeks to achieve the above objectives.

5. As the House of the Tripura Legislative Assembly was not in session and immediate action was required to be taken in this regard, the Governor promulgated the Tripura State Goods and Services Tax (Amendment) Ordinance, 2018 (Tripura Ordinance No. 4 of 2018) on 12th October, 2018. The Bill now seeks to replace the said Ordinance.

(JISHNU DEV VARMA)
Deputy Chief Minister

TECHNICAL REPORT

The proposed Bill provides for the levy of tax on the supply of goods or services or both. The subject matter of the Bill conforms to the provisions of Clause (1) of the Article 286 of the Constitution of India.

The State Legislature is competent to legislate on the subject under sub-clause (1) of Clause 246A of the Constitution of India. The Provisions of the Bill are not repugnant to any provision of any existing Central Law or any provision of the Constitution, as amended by the Constitution (One Hundred and First Amendment) Act, 2016. It does not attract the proviso to Article 304(b) of the Constitution of India.

The Bill is money bill as defined in sub-clause (a) of Clause-I of Article 199 of the Constitution of India and as such recommendation of the Governor as required under clause (1) of Article 207 of the Constitution of India will be required for introduction of the Bill in the Tripura Legislative Assembly.

FINANCIAL MEMORANDUM

The proposed Tripura State Goods and Services Tax (Amendment) Bill, 2018 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the State.